

REMARKS

Before entry of this Amendment, claims 1-3, 6-15, 17-19 and 24-30 were pending in the application. After entry of this Amendment claims 1-3, 6-15, 17-19 and 24-30 remain pending under examination. The number of total claims has not been increased, and the number of independent claims has not been increased beyond the number for which payment previously had been made.

Applicants have carefully considered the Examiner's Action of August 10, 2006, and the references cited therein. The following is a brief summary of the Action. Claims 1-3, 6-15, 17-19 and 24-30 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claims 1-3, 7-15, 17-19 and 24-30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani et al (U.S. Patent No. 6,500,160) in view of newly cited U.S. Patent No. 5,358,792 to Mehta et al. Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani et al in view of Mehta et al as applied to claims 1-3, 7-15, 17-19 and 24-30, and further in view of Luizzi et al (U.S. Patent Application Publication No. 2003/0199842).

Claims 1-3, 6-15, 17-19 and 24-30 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. In particular, the rejection asserted that the specification:

lacks a complete description of the composition of the claimed wrapper material that would enable one of ordinary skill in the art to make or use the invention so as to be able to replicate the seal strength and opening noise level set forth in the claims.

The Office Action further explained this rejection at page 3, lines 6 – 12 by stating that the specification's

expression "a liquefiable substance having a liquefaction temperature from about 40° C. to about 300° C. and being compatible with the ingredients in the powdered detergent composition" is too broad and indefinite since it purports to cover everything which will perform the desired functions regardless of its composition, and, in effect, recites compounds by what it is desired that they do rather than what they are; expression also is too broad since it appears to read upon materials that could not possibly be used to accomplish purposes intended.

Respectfully, Applicants' specification does not contain the expression "a liquefiable substance having a liquefaction temperature from about 40° C. to about 300° C. and being compatible with the ingredients in the powdered detergent composition" that the Office Action found to be "too broad and indefinite". Nor does the cited passage bear any relation to Applicants' disclosure.

Moreover, claim 1 is a product claim for a package comprising a pouch formed of wrapper material that requires:

said wrapper material comprising a nonwoven material in at least a border region along lateral sides of said pouch, said border region of nonwoven material defining a seal zone along said lateral sides of said pouch;

said opening flap having lateral sides sealed with opening flap seals to said pouch lateral sides along said seal zone such that a user opens said pouch by separating said opening flap seals;

wherein said opening flap seals have a seal strength of between about 20 grams-force and about 60 grams-force and an opening noise level of less than about 60 db;

The inventors determined how to configure a wrapper that did not suffer from unacceptable noise levels during breaking of the seal of such wrapper by the consumer.

They determined that such wrapper must be provided with opening flap seals wherein the indicated seal strength is at least 20 grams-force in order to assure adequate processing strength and no more than about 60 grams-force in order to assure acceptable noise levels (less than about 60 db as calculated in the disclosed protocol) during breaking of the seal by the consumer (page 8, lines 19 – 32). Such product is novel and non-obvious.

Applicants contend that the present specification's disclosures of the novel and non-obvious desired target range of seal strength (between about 20 grams-force and about 60 grams-force) together with the nonwoven material(s) (page 4, lines 22 – 32; page 11, line 28 – page 13, line 27), the manner of bonding the seals (page 5, lines 17 – 23; page 10, lines 21 – 29), the manner of determining the seal strength that falls within the disclosed parameters (20 – 60 grams-force) (page 21, line 1 – page 23, line 10) and the manner of measuring the noise level that must be kept below the about 60 db target (page 14, line 19 – page 20, line 20), will enable the person of ordinary skill to practice the invention without undue experimentation. Some amount of optimizing the particular parameters that suit individual embodiments does not constitute undue experimentation. Accordingly, Applicants respectfully submit that claims 1-3, 6-15, 17-19 and 24-30 comply with the written description requirement and are patentable under 35 U.S.C. 112, first paragraph.

For the reasons explained below, applicants respectfully traverse the rejection of claims 1-3, 7-15, 17-19 and 24-30 under 35 U.S.C. 103(a) as being unpatentable over Mizutani et al in view of Mehta et al.

The Office Action stated at page 4, lines 5 – 6 that:

Mizutani teaches a decibel level upon unsealing portions 25 of 55 db. (Col. 12, line 1).

However, as explained below, Applicants believe that this interpretation of the teaching of Mizutani et al is incorrect. Mizutani et al explains at column 11, line 65 – column 12, line 1 that this 55 db reading “was measured by the microphone of a precise sound level meter at a distance of 30 cm.” Such Mizutani et al methodology does not correspond to the Applicants' methodology that was used to obtain the range that is specified in the claims. Moreover, as explained below, the Mizutani et al methodology under-reports the level of sound relative to the way that Applicants' claimed range of less than about 60 db is determined.

Briefly, the Mizutani et al methodology disposes the microphone much farther away from the seal being broken than does the applicants' methodology that was used to determine the Applicants' claimed range of less than about 60 db. As explained at page 15, lines 1 – 3, of Applicants' specification:

The door and each wall are constructed of 0.25-inch thick 6061 grade anodized aluminum. The door 203 and rear wall 208 are each 36 inches (91.4 cm) in height and 24 inches (61.0 cm) in width.

Thus, the distance from the outer surface of the side wall 206 to the center of the sound testing apparatus 200 shown in Fig. 7 for example is 12 inches (one half of the 24 inches of the width of the door 203). As explained at page 15, lines 3 – 9 of Applicants' specification:

The interior surface of the door 203 and each wall 204-208 has applied thereto two-inch thick polyurethane sound-dampening foam 209, available from Illbruck Inc., a company having offices in Minneapolis, MN, under the brand name SONEX and stock number SOC-2.

Thus, the distance from the surface of the sound-dampening foam 209 on the side wall 206 to the center of the sound testing apparatus 200 shown in Fig. 7 for example is one half of the 19.5 inches that is left after subtracting the four inches of foam (two inches on each side wall 206, 207) and the two quarter inches in thickness of each of the aluminum plates that form each side wall 206, 207. Thus, the distance from the surface of the sound-dampening foam 209 on the side wall 206 to the center of the sound testing apparatus 200 shown in Fig. 7 for example is 9.75 inches. As explained at page 15, lines 1 – 3, of Applicants' specification, the microphone is about 2.5 inches from the sound dampening material:

Insert the full length of the microphone 221 into the testing chamber 201 (it should extend past the wall and sound dampening material approximately 2.5 inches), positioned at a 90-degree angle to side wall 206.

Thus, the distance from the microphone 221 to the center of the sound testing apparatus 200 (where the sound is generated) as shown in Fig. 7 for example is 7.25 inches (9.75 inches – 2.5 inches) or 18.4 cm (7.25 inches x 2.54 cm/inch).

Accordingly, Applicants' testing protocol places the microphone 11.6 cm closer (30 cm – 18.4 cm) than the Mizutani et al methodology disposes the microphone. Therefore, the person of ordinary skill would regard a reading of 55 db under the Mizutani et al protocol to indicate that the same product tested according to Applicants' testing protocol, which places the microphone 11.6 cm closer to the sound, would fall outside of the upper limit of about 60 db of claims 1-3, 6-15 and 26.

Additionally, each of independent claims 1, 17 and 25 calls for an individually wrapped absorbent article package to include a wrapper material folded into a pouch. A seal is provided in the wrapper material such that a user gains access to the

absorbent article by opening the seal. The wrapper material includes a nonwoven material in at least a region along the seal such that the seal is formed completely of the nonwoven material. Each of claims 1, 17 and 25 further calls for this seal to have a seal strength of between about 20 grams-force and about 60 grams-force.

The Office Action acknowledges that neither Mizutani et al nor Mehta describes the particular peel strength falling within the range required by the claims. However, the Office Action concludes at lines 15 – 17 on page 4 that:

in view of the rejection of claim 1 under 35 U.S.C. 112, it would be obvious to one of ordinary skill in the art to further modify the composition of the film taught by Mehta to yield a seal strength value between 20-60 gf.

Applicants respectfully disagree with this conclusion.

Neither Mizutani et al nor Mehta appreciates that the wrapper must be provided with opening flap seals wherein the indicated seal strength is at least 20 grams-force in order to assure adequate processing strength and no more than about 60 grams-force in order to assure acceptable noise levels (less than about 60 db as calculated by Applicants' disclosed protocol) during breaking of the seal by the consumer. That is Applicants' novel and non-obvious contribution. Absent that knowledge, Mizutani et al and Mehta must rely on Applicants' disclosure before the person of ordinary skill is tipped off to undergo the process of optimizing the particular parameters that suit individual embodiments.

Accordingly, applicants respectfully submit that claims 1-3, 7-15, 17-19 and 24 - 30 are patentable under 35 U.S.C. 103(a) over Mizutani et al in view of Mehta et al.

For the reasons explained below, applicants respectfully traverse the rejection of claim 6 under 35 U.S.C. 103(a) as being unpatentable over Mizutani et al in view of

Mehta et al as applied to claims 1-3, 7-9, 11-5, 17-19 and 24-30, and further in view of Luizzi et al.

Initially, Luizzi et al fails to overcome the deficiencies noted above in Mizutani et al and Mehta, and therefore claim 6 is patentable under 35 U.S.C. 103(a) over Mizutani et al in view of Mehta et al and further in view of Luizzi et al for at least this first reason.

Claim 6 requires the film material sheet of the wrapper to comprise "a pattern of holes defined therethrough, said nonwoven material exposed by said holes". In the embodiment of Fig. 5, the film material 50 of the wrapper includes a pattern of holes or passages 56 defined through the film material 50. Thus, the nonwoven material of the wrapper is exposed through these holes or passages 56 when the wrapper material is folded into the pouch configuration.

Page 6, line 14 through page 7, line 1 of the Office Action states:

Luizzi teaches an absorbent article having a tape tab at one longitudinal end for retaining a soiled article in a folded configuration. The article is comprised of a backsheet of nonwoven material and a cover sheet comprised of a porous (i.e. vapor permeable) or nonporous nonwoven film. ('842, ¶0032) Therefore Luizzi teaches that a porous film may be substituted for a regular nonwoven, and a porous film by its nature possesses a pattern of holes.

Applicants respectfully disagree with this conclusion.

Luizzi et al only discloses an absorbent article 10. Luizzi et al fails to disclose or suggest that the article 10 should be provided in a pouch formed of a wrapper that comprises a nonwoven material lined with a film that is provided with a pattern of holes that exposes the nonwoven material (as in Applicants' claim 6). Per Luizzi et al ¶0031, the Luizzi et al porous film referenced in the Action is the topsheet or cover 30 of the Luizzi et al absorbent article 10, not any sort of film forming part of a wrapper for the

absorbent article 10.

Accordingly, applicants respectfully submit that claim 6 is patentable under 35 U.S.C. 103(a) over Mizutani et al in view of Mehta et al as applied to claims 1-3, 7-9, 11-5, 17-19 and 24-30, and further in view of Luizzi et al.

Applicants respectfully request reconsideration and reexamination of claims 1-3, 6-15, 17-19 and 24-30, as presented herein, and submit that these claims are in condition for allowance and should be passed to issue.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,

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